

ENTERED

November 14, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JOSHUA LANE,
TDCJ #01510890,
Petitioner,

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VS.
LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,
Respondent.

CIVIL ACTION NO. 3:16-CV-113

ORDER OF DISMISSAL

The petitioner, Joshua Lane (TDCJ #01510890), is a state inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ”). Lane has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the validity of a state criminal conviction. After reviewing all of the pleadings and the applicable law under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court concludes that this case must be **DISMISSED** without prejudice for lack of jurisdiction.

This is the third federal habeas petition that Lane has filed challenging his life sentence for murder. *See* Southern District of Texas Case Numbers 3:11-CV-215 and 4:13-CV-2290. The first was dismissed as time-barred, and the second was dismissed because it was an unauthorized successive petition. Lane evidently recognizes that this petition is also unauthorized, as he has filed a “motion for leave to file a successive petition” (Dkt. 2).

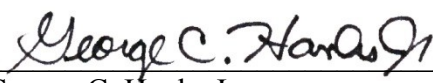
Lane filed his motion for leave in the wrong court—an applicant wishing to file a successive federal habeas application with a district court must first “move in the appropriate *court of appeals* for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A) (emphasis added). Lane, in other words, must obtain authorization from the Fifth Circuit, not this Court. Until he obtains that authorization, this Court lacks jurisdiction over the petition. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

Based on the foregoing, the Court **ORDERS** as follows:

1. The habeas corpus petition (Dkt. 1) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction, and this docket is closed.
2. A certificate of appealability is **DENIED**.
3. All pending motions are **DENIED** as moot.

The Clerk shall provide a copy of this order to the parties.

SIGNED at Galveston, Texas, this 14th day of November, 2016.



George C. Hanks Jr.
United States District Judge